

From: Christopher Tinto/=WDC/Toyota_NY.

Sent: 8/23/2007 3:45 PM.

To: [-] George Morino/=TMS/Toyota@Toyota.

Cc: [-] .

Bcc: [-] .

Subject: Re: URGENT UPDATE on ES350 Investigation.

Believe me - I had to walk around the building a few times before and after the call.

Let's discuss by phone ...

Chris

Chris Tinto
Vice President, Toyota Motor North America Inc
Sent from Wireless hand held

From: George Morino
Sent: 08/23/2007 06:29 PM
To: Christopher Tinto
Cc: Chris Santucci; Kirk Forsht; Dave Zellers
Subject: Re: URGENT UPDATE on ES350 Investigation

Chris:

We greatly appreciate this information.

Please let me know if there is anything we can do to support including flying Kirk and/or myself out to D.C.

I'm really sorry that NHTSA is taking this approach considering the actions they took against Honda for the oil filter. I also surprised they would threaten us with a Public Service message when they haven't done a Peer Review to determine if other manufacturers have a similar issue.

Thank you again.

George Morino
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Christopher Tinto/WDC/Toyota_NY@TOYOTA_NY
08/23/2007 03:08 PM

To George Morino, dave_zellers@toyota.com, Kirk Forsht, shinichiro_ogata@mail.toyota.co.jp, Takezo Oba/HINPO/TMC0@TMC0@TMCE@TOYOTA, Shinichiro Ogata/HINPO/TMC0@TMC0
cc Hisaaki Kato/WDC/Toyota_NY@Toyota_NY, chris santucci, Kevin Ro/WDC/Toyota_NY@Toyota_NY
Subject URGENT UPDATE on ES350 Investigation

FYI - I received a call from the head of NHTSA Enforcement today. Basically, there were some internal NHTSA briefings today regarding the ES350 floor mat/throttle sticking issue -- including Toyota's actions to date, NHTSA internal investigation and analysis, complaints, etc. -- and apparently NHTSA management has decided to demand further action from Toyota. They are requesting a meeting ASAP to discuss their investigation and their ideas for further action.

Upon further discussion, Dan Smith explained the following:

They claim that this remains a serious issue, even subsequent to our mailings to Lexus owners;
They recognize that this is a misuse issue (stacked mats), however, they believe that something about the throttle pedal or floorpan design lends itself to easier jamming than other models produced in the past;
They also believe that the Prius, Camry and Avalon may also be prone to being overly sensitive to floor mat jamming and claim to have some evidence of such;
They claim that jamming can occur with Toyota mats or aftermarket mats;
They claim that the issue is further complicated by the fact that NHTSA believes that customers do not know how to shut off the car when in motion (i.e. hold the start button for 3 seconds).

NHTSA said that they feel that this is so important/urgent that they are considering a NHTSA public service announcement, informing the public to insure they install the mats correctly (i.e. proper clip use, and no stacking) as well as how to shut off the vehicle with the push button start.

In response, I proposed to NHTSA that we first have an informal meeting with their engineers, to get a 'download' of the information they have, as well as their analysis of pedal geometry, etc. I explained that in fact, all of these theories about design issues (vs. mat placement) are completely new to Toyota, and therefore a meeting of senior management would be essentially fruitless and premature at this point, as we can not possibly provide any meaningful feedback to their demands until we have a better understanding of what they think the issues may be. Afterwards, we can digest the information, and set up some follow up meetings with NHTSA to discuss potential next steps, if any are deemed necessary.

Regarding their consideration of a NHTSA public safety announcement, they agreed to send a draft to us prior to its issuance. At this point, no decisions are made, but this remains an option for them, based on what Toyota is or is not willing to do.

Therefore, TMA's game plan is as follows:

- 1) TMA will contact NHTSA engineers for further background tomorrow.
- 2) TMA will set up a meeting between our guys in DC (i.e. Santucci and Ro) and NHTSA engineers (Quandt and Yon) for sometime late next week, preferably in the TMA-DC offices. Our plan is that no senior staff or attorneys will be present. However, if they insist on a larger meeting, we will have Erika Jones (outside counsel) attend on our behalf. I will not attend, to insure that NHTSA does not try to negotiate any next steps at this phase.
- 3) TMA will forward all information from this meeting to TMC for consideration and comments.
- 4) Depending on feedback from TMC, and NHTSA's sense of urgency, we will shoot for a larger meeting between NHTSA and Toyota (TMA, TMC engineers, and TMS) for the second or third week of September.

We will keep everyone informed as things progress.

Best Regards,
Chris

Chris Tinto

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----- Forwarded by Christopher Tinto/WDC/Toyota_NY on 08/23/2007 04:16 PM -----

Chris Santucci/WDC/Toyota_NY

08/23/2007 04:08 PM

To Christopher Tinto/WDC/Toyota_NY@Toyota_NY, jiyunji_ogata@mail.toyota.co.jp, Michiteru

Kato/HINPO/TMC0@TMC0@TMCE@TOYOTA

cc George Morino/W, dave_zellers@toyota.com, Kirk Forsht/M, shinichiro_ogata@mail.toyota.co.jp, Kevin

Ro/WDC/Toyota_NY@Toyota_NY, Akira Kanatani/WDC/Toyota_NY@Toyota_NY, Hisaaki

Kato/WDC/Toyota_NY@Toyota_NY, Takezo Oba/HINPO/TMC0@TMC0@TMCE@TOYOTA

Subject UPDATE on ES350 Investigation

Yesterday I went to NHTSA to deliver 2 sets of floor mats and 10 copies of the owner notification letters. The mats were of the latest design, which included the packaging and warning text enhancements. I met with Scott Yon and Jeff Quandt (ODI) and went through the larger text in the mat, the changes to the packaging, and the tag that is attached to the grommet hole. In addition, I explained the owner letter and the warning sticker for their benefit. Finally, I mentioned that Toyota would be rolling out TSB's that specifically explain the installation of the mat to be used with the Pre-Delivery Instructions (PDI) for all our vehicles over the next few years. Scott and Jeff were in a hurry, but we had some time to speak about the matter.

Jeff mentioned that the new size text on the mat was very readable. He was pleased in that regard. They mentioned two points:

Using ETC to shut down throttle control when the brakes are applied
Multiple tap of the ignition button for engine stop

They mentioned that another manufacturer (VW) is cutting off the throttle when the brakes are applied. Scott mentioned that it had some specific conditions, but did not elaborate. Jeff mentioned that another manufacturer allows the engine to be shut off if you rapidly press the ignition button repeatedly.

I don't believe that these functionalities are things they want Toyota to implement, there are no requirements to do so. I mentioned that I would relay this information when I returned. They were in a hurry, so I neglected to ask about the survey information. Another investigator offered to show me around the new building. I ran into a lot of different investigators and ODI staff and when asked why I was there, when I told them for the ES350 floormats, they either laughed or rolled their eyes in disbelief. I maintained that Toyota was serious about the issue and had already carried out some efforts on preventing occurrences.

Today I called Scott to follow up on the survey information. He had not followed up on his end to release the data, so we will still have to wait for it. But what I found was that most of the 35 cases they had extracted from the survey were double stacked mats. They also have 6 complaints on 07 Camry, 6 complaints on 05-07 Avalon, and 6 complaints on 04-07 Prius. He also mentioned that some of these complaints were on vehicles using non-Toyota floor mats.

However, I learned today that based on their briefing, NHTSA is very serious and "wants Toyota to do something." I pointed out all the things we have done again, and when I got to the TSB part, he didn't remember me telling him about it yesterday. He told me that he would mention it to the people involved in the briefing by email.

He is concerned that the issue will compound once vehicles change hands or mats are removed for cleaning and clips are lost/broken. I told him that we have been producing mats for quite some time, and that we have been using clips for quite some time, and it hasn't been an issue. But he believes that the accelerator pedal is of a new design that can easily be tripped by a loose floor mat.

I will update you on further developments as they occur, however, it appears that NHTSA is very serious about this issue and is unfortunately overlooking our efforts to date in favor of a "vehicle issue."

Regards,

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Today I spoke to NHTSA about the ES350 investigation. Earlier this week I had contacted them to get details on the survey that was mentioned in the resume. They were too busy earlier, so today they called me back to discuss.

As Chris mentioned, the agency upgraded because of the number of incidents, and the severity of the incidents. So first, we discussed the survey. I asked for a copy, and they said they want to discuss it with me first over the phone, but they cannot promise when we will get a copy. Apparently VRTC sent over 2000 survey letters to all registered owners of the ES350 in the state of Ohio. They received over 600 responses. Of those 600, around 480 indicated that they had the all weather mat. Of those 480, 35 described some sort of issue with the all weather mat. These issues were limited to double stacked or loose single mats, however, they indicated that some of the issues described may be related to hesitation/sluggishness (driveability concerns).

After discussing the survey, they stated to talk about next steps and issuing an IR letter. Peer vehicles were mentioned, and I agreed that a peer analysis would be a good piece of information for an EA. They mentioned a recent crash of a 2007 Camry in California that involved a fatality. They indicated that preliminary reports from the police lead them to believe that more than one floormat was in the driver footwell. They also mention the Prius and a couple similar (non-fatal) incidents as well.

I told them that obtaining additional data on ES350's may not be useful at this time. Since we conducted our mailing and implemented the countermeasures, and we believe they have been effective in reducing occurrences, perhaps waiting to collect ES350 data would be beneficial. From this, they mentioned their need to move quickly. They told me that they are having an internal briefing (most likely with Medford/Smith/DeMeter) about this investigation about what to do. I told them that what they are describing sounds like an upgrade meeting, and they fell silent. Then Jeff Quandt mentioned that they aren't sure that they want to spend a whole year investigating this issue.

They also mentioned that they did not have a set of countermeasured mats. At this point, I promised that we would provide them with new mats and owner notification letters, so that they can show at their briefing all of the efforts Toyota has made to reduce misuse of the floor mats. I told them that I believe we have done a lot to prevent this from happening, and most likely, what we have done already has had a significant impact. My hope is that giving them a fresh supply of this material will have a positive effect at their briefing (if they bring them along, of course).

So I would like to get a couple of sets of mats and owner letters/stickers/envelopes etc (TMS-help please) and drop them off with NHTSA next week. Their briefing is next Thursday. Hopefully when I meet up with them, I can get the survey information. Let me know what you think. If you have any concerns about my proposal, let me know as soon as possible.

If NHTSA doesn't want to spend a year on this, then that means they want to speed up the process and possibly issue a recall request letter right away. Without seeing exactly what the survey results are, I think it is premature of NHTSA. They really don't have enough data to take that next step to request a recall. Plus, given our actions to date, if that's what comes out of the briefing (i.e. issue a recall request letter) I'd be surprised. However, if that is what they are going to decide, then trying to get the physical manifestations of our actions (i.e. the new mats, the letters, warning labels, etc.) into that meeting might just tell them that they already have what they need to close this investigation. I would even venture a guess that some members of NHTSA management (like Chief Counsel) are not aware of our mailing, and perhaps that is why we are at an EA today. Just my thoughts.

Regards,

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FYI - I just received a "heads up" call from NHTSA regarding the agency's intention to upgrade the Preliminary investigation (PE07-016) into the Lexus ES350 All Weather Floor Mats to an Engineering Analysis (EA).

After reviewing Toyota's submission of June 11, as well as its own independent testing and field evaluation of incidents, the agency believes that it should upgrade based on the severity of the incidents (i.e. some high-speed, wide-open-throttle complaints), coupled with its latest count of 40 complaints, 8 crashes and 12 injuries.

Although NHTSA recognizes the efforts we have already made to alert dealers and owners of the potential interference issue (when the mats are incorrectly stacked), NHTSA also believes the design of the floor mat itself (weight, cut, fit) lends itself to causing unintended pedal application even when the mat is not stacked. In further conversation, although the agency can not legally 'prescribe' a fix, they felt that slightly modifying the existing mat may help alleviate the problem.

I expressed our appreciation for the heads up, as well as encouraged future close dialogue to attempt to come to a mutually acceptable solution.

We will forward the resume as soon as it becomes available, and at that time we will also try to find out when this is likely to become public, to gauge timing constraints for Q&A preparation.

Best Regards,
Chris

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